

Resolution No.: 15-1144
Introduced: September 20, 2005
Adopted: September 20, 2005

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY**

By: County Council

SUBJECT: Approval of Zoning Application G-830 and its related development plan for the reclassification from the C-2 Zone to the TS-M Zone of 5.907-acres known as Lot 4, Higgins Estate Subdivision, located at 11401 Rockville Pike, North Bethesda in the 4th Election District.

Tax Account No. 04-01634382 and 04-00032264

OPINION

Zoning Application No. G-830, filed October 24, 2004, requests reclassification from the C-2 Zone to the TS-M Zone of 5.907-acres known as Lot 4, Higgins Estate Subdivision, located at 11401 Rockville Pike, North Bethesda in the 4th Election District.

The Hearing Examiner recommend approval of the application and development plan on the basis that the proposed development satisfies all the requirements of the TS-M Zone, meets the performance requirements for a development plan and bears sufficient relationship to the public interest to justify approval. The Planning Board and Technical Staff also recommend approval. The District Council agrees with these conclusions and adopts the findings of fact and conclusions set out in the hearing examiners report.

The subject property is located in the North Bethesda-Garrett Park Planning Area and within 1,500 feet of the White Flint Metro Station. The 5.907-acre tract is trapezoidal in shape and is composed of two parcels. The eastern parcel contains 3.75 acres and is currently developed with the 160 unit Park Inn Motel and 15,000 square feet of retail uses. The western parcel contains 2.15 acres and is used for 300 surface parking spaces that are accessible from Woodglen Drive. These parking spaces are used

by workers from adjacent office buildings located to the south, known as Rockwall I and II, whose ownership is affiliated with the Applicant.

The topography reflects a 21-foot average drop in grade from the northwest corner to the southeast corner. Most of the site is impervious because of the large area used for surface parking and buildings. The only landscaped area is located along the Rockville Pike frontage. The site was developed before the adoption of storm water management regulations.

The zoning history of the site reveals that it was initially zoned for residential uses under the R-90 Zone by the 1954 Regional District Zoning. This zoning was confirmed by comprehensive zoning in 1958. In 1952 the Board of Appeals approved a special exception for a motel and modifications to the special exception were granted in 1959 and 1977. In 1978, the property was reclassified to the C-2 by comprehensive zoning and the zoning pattern was confirmed by comprehensive zoning again in 2003. The site does not contain any historic structures and does not constitute a historic site.

The site is located at the southern edge of the White Flint Sector Plan Area as delineated by the 1992 North Bethesda-Garrett Park Master Plan. The entire site is recommended for the TS-M Zone as a floating zone and the plan envisions the site as the southern gateway for the White Flint area. The District Council determines that the surrounding area extends to the east and west to include those uses on the east side of Rockville Pike and the west side of Woodglen Drive. The surrounding area also extends southeast to the Flanders Avenue area and the residential areas where the Opposition resides and will likely receive impact from this development. The surrounding area also extends north to the Marinelli Road area to include the TS-M and TS-R zoned mid-rise and high-rise buildings. The land use and zoning pattern reflects mixed uses including office, commercial, multi-family, and single-family residential uses. Located east of the site are the White Flint Mall and Fitzgerald's Auto World dealership developed under the C-2 Zone.

Located immediately north of the site is a 4-story office building developed under the C-2 Zone as Wood Glen Park. Located at the northwest corner of Rockville Pike and Nicholson Lane is an automobile service station developed under the C-2 Zone. Located further north along both sides of

Rockville Pike are retail uses developed under the C-2 Zone and mid-rise to high-rise residential and office buildings developed under the TS-M and TS-R zones. Located northwest of the site is a WSSC water facility. Located directly west of the site is Fallstone, a residential townhouse community located on the west side of Woodglen Drive and buffered from the street by extensive vegetation and a 20 foot rise in elevation from street level. The townhouse community is developed under the PD-11

The proposed development involves a transit-oriented combination of commercial and residential uses set within a space containing a number of amenities. The project would include a maximum of 649,114 square feet of development. The submitted development plan portrays 176,000 square feet of above ground retail uses, 60,000 square feet of commercial cellar space, and 413,114 square feet of residential space (435 residential units including 66 MPDUs). The binding elements specify that the total amount of residential development (including the number and percentage of MPDUs) may increase as a result of the conversion of commercial to residential use, so long as the ground floor of each building remains commercial and there is a minimum of 130,000 square feet of commercial development. The binding elements also specify that the project will include up to 15 percent MPDUs, depending on the amount of density bonus approved at site plan, and that all MPDUs will be provided on site. The submitted development plan reflects an overall density of 2.29-floor area ratio (FAR), which is consistent with the master plan recommendation of 2.4 FAR with an MPDU bonus. Parking will be located both underground and in a structured parking garage. The submitted development plan depicts a minimum of 1,219 new parking spaces and 560 existing spaces in the adjacent Rockwall II office building. The development would be completed in a single phase.

Amenities include the extension of Executive Boulevard across the northern perimeter of the site to a juncture with Rockville Pike. A service drive will be located along the southern perimeter of the site, and a north-south street known as Festival Street will connect the service drive to Executive Boulevard. This street grid is designed to slow traffic and offer a buffer for pedestrians. The street grid will also provide pedestrian access to and from the Metro station. All streets connected with the project will have sidewalks, street trees, pedestrian scale streetlights, benches, other streetscape improvements

and ample building setbacks. These improvements will also include landscaping and public art. A plaza will provide public space at a central location adjacent to Festival Street and will be bordered by two story shops to define its public character. The plaza will contain landscaped areas, outdoor seating areas, event space and pedestrian connections to Rockville Pike.

The project provides sufficient amenities to meet the requirements of the TS-M Zone for public use space and active and passive recreational space. The urban plaza would contain over 19,079 square feet of space, which exceeds the 10% public use space requirement. Some 47,698 square feet of active and passive recreational space are proposed to be located in a combination of sidewalks, structures and pedestrians areas. For example, there will be rooftop courtyards, rooftop amenity space for residents and public amenity space within buildings. The total recreational space would be 25% and meets the requirements of the TS-M Zone.

Other amenities include the improvement of the bicycle trail along Woodglen Drive, considered a north-south greenway, and the extension of the bicycle trial along Executive Boulevard. Public art will be integrated into the public spaces and will highlight "White Flint" in public spaces or on building facades to recognize the significance of the location. An important amenity is the Applicant's commitment to affordable housing by means of a binding element under the development plan. The commitment will ensure that MPDUs will be provided on site for this mixed-use project, in an amount equal to at least 12.5 percent and potentially up to 15 percent of the total number of residential units.

The site will be divided into two blocks separated by Festival Street. The western block is expected to include a 60,000 square foot grocery store on the ground floor. The other retail uses will be located on the ground floor space and residential uses will be located above the retail uses. A parking garage will also occupy this block and will be bordered by the grocery store and residential uses so it will not be visible from Woodglen Drive. A binding element of the development plan provides that the building height along Woodglen Drive will be limited to no more than 6 stories.

The eastern block will include greater densities and building heights because it is closer to Metro. There will be two story retail uses at the base of the buildings along Rockville Pike and residential uses

will be placed above. The eastern block will also contain the internal public plaza space behind the buildings with frontage along Rockville Pike. Smaller shops and restaurants will border the plaza that will allow pedestrians to freely cross through the site unimpeded by traffic obstacles. The building façade along Rockville Pike will reflect a mid-rise podium ranging from 4 to 7 stories. A 24-story point tower will be placed at the northeast corner of the site. The point tower is intended to represent the southern gateway to the White Flint area.

The District Council finds that approval of the TS-M Zone for the proposed location satisfies the zoning requirements because the proposed development is a proper use for the comprehensive and systematic development of the County; the proposed development is capable of accomplishing the purposes of the TS-M Zone; the proposed development is in compliance with the applicable master plan and sector plan; and the proposed development satisfies all the technical requirements of the TS-M Zone.

The District Council also finds that the development plan meets the requirements of the Montgomery County Code § 59-D-1.61 (a)-(e). The proposed development is in substantial compliance with the area master plan, which designates the subject property for the TS-M Zone, and the master plan and sector plan contain land use and urban design objectives that are reflected in the development plan. The scale, density and amenities of the proposed development satisfy the sector plan objectives for this location.

The District Council concludes that the proposed development would be compatible with adjacent development and would comply with the purposes, standards, and regulations of the TS-M Zone. The development plan provides an imaginative and compact site design with compatible land uses and specifically implements the design guidelines of the sector plan. The development plan contains amenities that will extend benefits to future residents of the development and their neighbors. The District Council determines that the proposed internal vehicular and pedestrian circulation systems and points of access are safe, adequate, and efficient. The evidence is persuasive that the internal

vehicular and pedestrian circulation systems will be safe, adequate and efficient. The internal roads are designed to encourage safe and efficient distribution of traffic within mixed-use areas.

The District Council finds that the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features. The site design will provide open space and landscaped areas. The plan minimizes grading and takes advantage of topography. The development will provide for soil erosion and sediment control measures. These efforts will prevent soil erosion, ensure sediment control and preserve natural features.

Finally, the District Council determines that the proposed development will provide for the perpetual maintenance of all recreational, common and quasi-public areas.

For these reasons and because to grant the application would aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be granted and the development plan approved in the manner set forth below.

ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, approves the following resolution.

Zoning Application No. G-830, which requests reclassification from the C-2 Zone to the TS-M Zone of 5.907 acres known as Lot 4, Higgins Estate Subdivision, located at 11401 Rockville Pike, North Bethesda in the 4th Election District is granted in the amount requested, effective *nunc pro tunc* as of September 19, 2005.

The development plan for the above granted application, submitted as Ex. 70 (b), is approved, effective *nunc pro tunc* as of September 19, 2005, provided, however, that within 10 days of receipt of this resolution, the Applicant must submit the approved development plan as a single document for certification in accordance with §59-D-1.64.

This is a correct copy of Council action.

A handwritten signature in cursive script that reads "Linda M. Lauer". The signature is written in black ink and is positioned above a horizontal line.

Linda M. Lauer, Clerk of the Council